

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
TYLER DIVISION**

REALTIME DATA LLC d/b/a IXO

Plaintiff,

v.

HEWLETT PACKARD ENTERPRISE CO., HP
ENTERPRISE SERVICES, LLC, and SILVER
PEAK SYSTEMS, INC.,

Defendant.

Case No. 6:16-CV-00086-RWS-JDL

JURY TRIAL DEMANDED

**DECLARATION OF ERIC YEAMAN IN SUPPORT OF
SILVER PEAK SYSTEMS, INC.'S MOTION TO SEVER AND TRANSFER VENUE**

I, Eric Yeaman, hereby declare as follows:

1. I make this declaration in support of Defendant Silver Peak Systems, Inc.'s ("Silver Peak") Motion to Sever and Transfer Venue to the Northern District of California. I have personal knowledge of the following, and, if called upon to testify, would testify competently to the matters contained herein.

2. I am the Chief Financial Officer of Silver Peak.

3. Silver Peak's headquarters and principal place of business are located in Santa Clara, California. Silver Peak employs approximately 212 people, and the vast majority of them who are involved in the development of Silver Peak's products work at the Santa Clara headquarters and live in the San Francisco Bay Area.

4. Silver Peak designs and creates hardware and software products for wide area network optimization, designed to accelerate application performance over long distances. All of Silver Peak's products were conceived, developed, and designed by Silver Peak employees at Silver Peak's headquarters in Santa Clara County. None of Silver Peak's products or services are directed to any specific state, region, or district.

5. All of Silver Peak's technical documents and highly confidential source code, as well as its sales, marketing, and financial information relating to Silver Peak's products are located and maintained in the San Francisco Bay Area.

6. Silver Peak does not maintain a physical office, storage, distribution or manufacturing facility in the Eastern District of Texas. Silver Peak does not have any bank account, address, or telephone listing within the Eastern District of Texas. Silver Peak has two employees who work virtually from their homes in the Eastern District of Texas, but these employees work in sales and never worked on the development or functionality of Silver Peak

products. One of these employees reports to a manager in Arizona, and the other to a manager in Orange County, California. Silver Peak does not maintain any documents or records produced in the ordinary course of business relating to Silver Peak products in the Eastern District of Texas.

7. Silver Peak does not sell its products directly to customers for end use. Rather, Silver Peak sells its products only to resellers, who then resell Silver Peak products to customers for end use. Resellers are located all over the United States, and they may resell products to customers located anywhere in the United States. For fiscal years 2014, 2015, and 2016, collectively, 0.5% of Silver Peak's billings came from sales to customers located within the Eastern District of Texas.

8. No Silver Peak officers, employees, or to the best of my knowledge, other persons subject to the control of Silver Peak who may be able to provide testimony relevant to the above-captioned matter work or live in the Eastern District of Texas. All Silver Peak employees who would have relevant knowledge and could testify in this matter work and live in Northern California. These employees include CEO David Hughes, Senior Vice President of Products Damon Ennis, and myself.

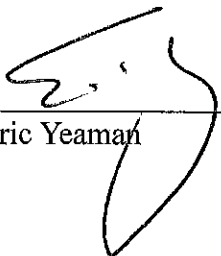
9. Due to the small size of Silver Peak's workforce, it would be costly for Silver Peak to have executives and employees travel to the Eastern District of California, as it would require airfare, lodging, and lost productivity. This cost could largely be avoided if the executives and employees only had to travel to locations within the Northern District of California.

10. Former Silver Peak employees may also possess relevant knowledge and who may provide testimony in this matter include John Burns (Former Software Architect engineer)

and Marc Trimuschat (former Vice President of Business Development and Global Alliances). I believe that these former employees still work and reside in the San Francisco Bay Area.

11. It would be far more convenient for Silver Peak to have this case litigated in the Northern District of California.

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct. Executed on this 8th day of September, 2016 in Santa Clara, California.


Eric Yeaman

CERTIFICATE OF SERVICE

The undersigned hereby certifies that all counsel of record who are deemed to have consented to electronic service are being served with a copy of this document via the Court's CM/ECF system per Local Rule CF-5(a)(3) on September 9, 2016.

/s/ Michael J. Sacksteder

Michael J. Sacksteder